

December 19, 2011

CLERK, U.S. BANKRUPTCY COURT  
EASTERN DISTRICT OF CALIFORNIA

0003959976

3

T. SCOTT BELDEN, CSB NO. 184387  
 JACOB L. EATON, CSB NO. 244834  
 KLEIN, DENATALE, GOLDNER,  
 COOPER, ROSENLIEB & KIMBALL, LLP  
 4550 California Avenue, Second Floor  
 Bakersfield, California 93309  
 Telephone: (661) 395-1000  
 Facsimile: (661) 326-0418  
 E-Mail: sbelden@kleinlaw.com; jeaton@kleinlaw.com

Attorneys for Debtors

## UNITED STATES BANKRUPTCY COURT

## EASTERN DISTRICT OF CALIFORNIA

## FRESNO DIVISION

In re:  
 DAVID A. CATES and LINDA A. CATES,  
 Debtors.

Case No. 11-15025-A-11

Chapter 11

DC No. KDG - 6

Date: December 13, 2011

Time: 2:00 p.m.

Place: Bankruptcy Court

1300 18<sup>th</sup> Street

Bakersfield, California

Judge: Whitney Rimel

**FINDINGS OF FACT IN SUPPORT OF CONFIRMATION OF  
 DEBTORS' MODIFIED PLAN OF REORGANIZATION DATED OCTOBER 14, 2011**

**I. Introduction<sup>1</sup>**

Confirmation of *Debtors' Modified Plan of Reorganization Dated October 14, 2011* ("the Plan") filed by DAVID A. CATES AND LINDA A. CATES ("Debtors") came on for hearing before the Honorable Whitney Rimel, United States Bankruptcy Court Judge, on December 13, 2011, in Bakersfield, California, after notice to Debtor, the United States Trustee, the Securities and Exchange Commission, all creditors and parties requesting special notice. T. Scott Belden, Esq. appeared for Debtor. Michael Abril, Esq. appeared for Citizens Business Bank. Michael Fletcher, Esq. appeared for United Security Bank. Christian Gascou,

Capitalized terms herein shall have the same meaning as set forth in the Plan unless stated otherwise.

OC

1

RECEIVED

December 15, 2011

CLERK, U.S. BANKRUPTCY COURT  
EASTERN DISTRICT OF CALIFORNIA  
0003959976

KLEIN, DENATALE, GOLDNER,  
 COOPER, ROSENLIEB & KIMBALL, LLP  
 4550 CALIFORNIA AVENUE, SECOND FLOOR  
 BAKERSFIELD, CALIFORNIA 93309

KLEIN, DENATALE, GOLDNER,  
COOPER, ROSENTHAL & KIMBALL, LLP  
4550 CALIFORNIA AVENUE, SECOND FLOOR  
BAKERSFIELD, CALIFORNIA 93309

1 Esq. appeared for ICW Group. Rennee Dehesa, Esq. appeared for Rabobank. Robin Tubesing,  
2 Esq. appeared for the United States Trustee.

3 The Court reviewed the Plan, the *Modification Before Confirmation to Debtors' Plan of*  
4 *Reorganization Dated October 14, 2011*, the *Worksheets for Determining Acceptance or*  
5 *Rejection of Debtors' Modified Plan of Reorganization Dated October 14, 2011*, the  
6 *Memorandum of Points and Authorities in Support of Confirmation of Debtors' Modified Plan*  
7 *of Reorganization Dated October 14, 2011*, the *Declaration of David Cates in Support of*  
8 *Confirmation of Debtors' Modified Plan of Reorganization Dated October 14, 2011*, the  
9 *Ballots on Debtors' Modified Plan of Reorganization Dated October 14, 2011*, the *Limited*  
10 *Objection by ICW Group to Modified Plan of Reorganization Filed by Debtors Dated October*  
11 *14, 2011*, and considered the comments made on the record by counsel for Debtor and other  
12 counsel.

13 After determining that copies of the Plan and the *Modified Disclosure Statement Filed*  
14 *by Debtors Dated October 28, 2011* approved by the Court had been served on Debtor, the  
15 United States Trustee, the Securities and Exchange Commission, all creditors, parties in interest  
16 and parties requesting special notice, the Court makes the following findings as more fully  
17 described on the record at the hearing held on December 13, 2011:

## 18 **II. Findings of Fact and Conclusions of Law**

19 1. *Debtors' Modified Plan of Reorganization Dated October 14, 2011* filed by  
20 Debtor as modified in the *Order Confirming Debtors' Modified Plan of Reorganization Dated*  
21 *October 14, 2011 and Setting Administrative Bar Dates* ("the Order Confirming Plan")  
22 complies with the applicable provisions of Chapter 11 of the Bankruptcy Code and meets the  
23 requirements of 11 U.S.C. § 1129 as more fully described below.

24 2. The Plan has been proposed in good faith and not by any means forbidden by  
25 law.

26 3. Any payment made or promised by Debtor or the estate for the services or for  
27 costs and expenses incurred in connection with the case, or in connection with the Plan and  
28 incident to the case, have been disclosed to the Court.

KLEIN, DENATALE, GOLDNER,  
COOPER, ROSENBLIEB & KIMBALL, LLP  
4550 CALIFORNIA AVENUE, SECOND FLOOR  
BAKERSFIELD, CALIFORNIA 93309

4. Each holder of a claim or interest of an impaired class that has accepted the Plan has, or will receive or retain under the Plan, property of a value, as of the Effective Date of the Plan, that is not less than the amount that such holder would receive or retain if the estate was liquidated under Chapter 7 on account of such claim.

5. The Plan has been accepted by at least one class of claims impaired under the Plan excluding insiders of Debtor.

6. Confirmation of the Plan is not likely to be followed by the liquidation or the need for further financial reorganization of Debtor.

7. All required Court and United States Trustee fees will be paid before the Effective Date of the Plan.

8. The Plan is fair and equitable as it relates to treatment of the following classes of claims that are impaired under the Plan but did not return Ballots or accept the Plan as required by 11 U.S.C. § 1129(a)(8):

Class Three	Priority Claim of Franchise Tax Board
Class Five	Kern County Tax Collector

9. ICW Group withdrew its limited objection to confirmation of the Plan based on the modification to the Plan contained in the Order Confirming Plan.


10. No other objections to confirmation were filed, and no classes of claims rejected the Plan.

11. Notice of the hearing on confirmation of the Plan was adequate and, based upon the foregoing, good cause appears for the entry of an Order confirming the Plan.

12. The Court will issue a separate Order confirming the Plan and setting specified deadlines as set forth in the Plan.

Dated:

Dec 19, 2011

  
United States Bankruptcy Judge